HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 12161 of 2002

Dated 10th October, 2007

Between

E.Thammayya

…Petitioner

and

The Transmission Corporation of A P Limited,
Rep. By its MD, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 12161 of 2002

ORDER:

In this Writ Petition, the petitioner has questioned the final assessment order dated 15-1-2002 in Proceedings No.SAT.10032/VSP/D.AKP/NRSP/P/F.1713/D.No.46, passed by the second respondent-Superintending Engineer, Assessments Circle, Visakapatnam.

For the purpose of running rice mill at Rolugunta in Visakhapatnam District, the petitioner had availed electricity supply under Industrial Category, vide Service Connection No. 246/2901. The said service connection was inspected by the Assistant Engineer on 16-10-2000 and during the said inspection, having found a hole on the glass of the meter, a case of pilferage was registered against the petitioner. As per the Terms and Conditions of Supply framed under

the Electricity (Supply) Act, 1948, the Superintending Engineer as final assessing authority had passed the impugned order, assessing the loss of energy on account of pilferage to the tune of Rs.1,96,852/-. Though there is remedy of appeal to the Chief Engineer against the order of the Superintending Engineer, no such appeal was preferred by the petitioner.

At the time of admission, this Court granted interim order on 10-7-2002 subject to depositing an amount of Rs.75,000/-. Though no counter affidavit is filed on behalf of the respondents, however, the learned Standing Counsel appearing for the respondents submits that no amount had been deposited by the petitioner as per the direction of this Court.

In this Writ Petition, it is submitted by the learned Counsel appearing for the petitioner that the petitioner himself made a representation pointing out the hole on the glass of the meter and there is no pilferage of energy at all. It is further submitted that assessment on account of loss of energy arrived at in the impugned proceedings to the tune of Rs.1,96,852/- is arbitrary fixation.

Even in the impugned order, it is categorically stated that there is remedy of appeal to the Chief Engineer. In that view of the matter, there is no reason at all for the petitioner to directly approach this court in spite of availability of alternative remedy. Having regard to the ground raised in the Writ Petition, if appeal is preferred, the appellate authority can appreciate and resolve the factual disputes, if any, raised by the petitioner. In that view of the matter, I dispose of the Writ Petition permitting the petitioner to prefer appeal against the impugned order

passed by the second respondent, within a period of two months from the date of receipt of a copy of this order. If such appeal is filed, the appellate authority shall consider the same without reference to the limitation and pass appropriate orders.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 10-10-2007
Msnr.